

House Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

CHAPTER 142

# **HOUSE BILL 2419**

AN ACT

AMENDING TITLE 37, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING  
SECTION 37-282.01; RELATING TO LEASE OF STATE LANDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 37, chapter 2, article 4, Arizona Revised Statutes,  
3 is amended by adding section 37-282.01, to read:

4 37-282.01. Mass appraisals; notice; procedure; definitions

5 A. BEFORE UNDERTAKING A MASS APPRAISAL PURSUANT TO SECTION 37-132,  
6 SUBSECTION A, PARAGRAPH 5, THE COMMISSIONER SHALL:

7 1. NOTIFY IN WRITING ALL LESSEES, PERMITTEES AND RIGHT-OF-WAY GRANTEES  
8 CURRENTLY OCCUPYING STATE LAND FOR THE USE TO WHICH THE MASS APPRAISAL WOULD  
9 APPLY AND SOLICIT COMMENTS FROM THE AFFECTED PARTIES AND ANY VALUATION  
10 INFORMATION, INCLUDING COMPARABLES, THAT THE AFFECTED PARTIES MIGHT  
11 VOLUNTARILY PROVIDE.

12 2. NOTIFY IN WRITING KNOWN INDUSTRY, TRADE AND PROFESSIONAL  
13 ORGANIZATIONS THAT TYPICALLY REPRESENT OCCUPANTS OF STATE LANDS FOR THE USE  
14 TO WHICH THE MASS APPRAISAL WOULD APPLY AND SOLICIT COMMENTS FROM THE  
15 ORGANIZATIONS AND ANY VALUATION INFORMATION, INCLUDING COMPARABLES, THAT THE  
16 ORGANIZATIONS MIGHT VOLUNTARILY PROVIDE.

17 3. PROVIDE THE AFFECTED PARTIES AND ORGANIZATIONS NINETY DAYS TO  
18 SUBMIT WRITTEN COMMENTS AND VALUATION INFORMATION, INCLUDING COMPARABLE DATA.

19 B. VALUATION INFORMATION, INCLUDING COMPARABLE DATA, SUBMITTED TO THE  
20 DEPARTMENT PURSUANT TO SUBSECTION A OF THIS SECTION MUST INCLUDE INFORMATION  
21 TYPICALLY USED FOR VALUATION PURPOSES. THE COMMISSIONER SHALL CONSIDER ALL  
22 VALUATION INFORMATION, INCLUDING COMPARABLE DATA.

23 C. INDUSTRY, TRADE AND PROFESSIONAL ORGANIZATIONS THAT DO NOT RECEIVE  
24 NOTICE PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION AND THAT WISH TO  
25 PROVIDE COMMENTS AND VALUATION INFORMATION, INCLUDING COMPARABLE DATA, HAVE  
26 NINETY DAYS FROM THE DATE OF THE NOTICE PROVIDED IN SUBSECTION A OF THIS  
27 SECTION TO IDENTIFY THEMSELVES IN WRITING TO THE DEPARTMENT AND PROVIDE  
28 COMMENTS AND VALUATION INFORMATION, INCLUDING COMPARABLE DATA.

29 D. THE COMMISSIONER SHALL BASE MASS APPRAISALS ON VALUATION  
30 INFORMATION INCLUDING COMPARABLES THAT ARE CONSISTENT WITH THE MARKET FOR  
31 THAT LAND USE IN THIS STATE, TO THE EXTENT THAT ADEQUATE VALUATION  
32 INFORMATION, INCLUDING COMPARABLE DATA, IS AVAILABLE. THE COMMISSIONER SHALL  
33 CONSIDER WHETHER THERE ARE DIFFERENT MARKETS FOR THAT LAND USE WITHIN  
34 DIFFERENT AREAS OF THE STATE, INCLUDING URBAN, SUBURBAN AND RURAL, AND  
35 REQUIRE THAT THESE DIFFERENT MARKETS ARE APPROPRIATELY ADDRESSED IN THE MASS  
36 APPRAISAL.

37 E. IN USING VALUATION INFORMATION, INCLUDING COMPARABLE DATA, ON LANDS  
38 IN PREPARING A MASS APPRAISAL, THE COMMISSIONER SHALL TAKE INTO ACCOUNT, IF  
39 APPLICABLE, THE SPECIFIC TERMS AND CONDITIONS OF LEASES, PERMITS AND  
40 RIGHT-OF-WAY GRANTS AFFECTING THE LANDS, INCLUDING:

41 1. ANY COSTS INCURRED BY THE OCCUPIER OF THE LAND TO PREPARE THE LAND  
42 FOR USE, INCLUDING ACQUISITION OF RIGHTS-OF-WAY FOR ACCESS TO THE LAND AND  
43 EXTENSION OF UTILITY SERVICES NECESSARY TO USE THE LAND.

2. WHETHER THE OCCUPIER OF THE LAND MAY SUBSEQUENTLY SUBLEASE, PERMIT OR LICENSE THE LAND OR IMPROVEMENTS ON THE LAND TO OBTAIN THIRD-PARTY REVENUE AND THE EXTENT TO WHICH THE IMPROVEMENT BEING SUBLET, PERMITTED OR LICENSED IS LEASED, PERMITTED OR LICENSED TO THE OCCUPIER OF THE LAND.

F. AT LEAST SIXTY DAYS BEFORE THE COMMISSIONER SUBMITS A MASS APPRAISAL TO THE BOARD OF APPEALS FOR APPROVAL, REJECTION OR MODIFICATION, THE COMMISSIONER SHALL NOTIFY IN WRITING ALL PARTIES WHO WERE NOTIFIED OR PROVIDED COMMENTS AND VALUATION INFORMATION PURSUANT TO SUBSECTION A OR C OF THIS SECTION AND SHALL MAKE AVAILABLE ON THE DEPARTMENT'S WEBSITE A COPY OF THE MASS APPRAISAL TO BE ACTED ON BY THE BOARD OF APPEALS. THE COMMISSIONER SHALL PROVIDE A HARD COPY OF THE MASS APPRAISAL TO ANY PERSON WHO REQUESTS IT PURSUANT TO SECTION 37-102, SUBSECTION F. THE NOTICE SHALL ADVISE THE RECIPIENTS OF THEIR RIGHT TO APPEAR BEFORE THE BOARD OF APPEALS REGARDING THE MASS APPRAISAL.

G. THE COMMISSIONER SHALL ADJUST THE MASS APPRAISAL AT ANY TIME IF THE COMMISSIONER DETERMINES THAT SIGNIFICANT CHANGES IN MARKET CONDITIONS OR TECHNOLOGY HAVE OCCURRED OR THAT OTHER CHANGED CONDITIONS WOULD MATERIALLY AFFECT THE VALUATION OF LAND USES SUBJECT TO THE MASS APPRAISAL. BEFORE MODIFYING A MASS APPRAISAL, THE COMMISSIONER SHALL GIVE WRITTEN NOTICE TO HOLDERS OF LEASES, PERMITS AND RIGHT-OF-WAY GRANTS AFFECTED BY THE MASS APPRAISAL AND TO THE PERSONS IDENTIFIED IN SUBSECTION A OF THIS SECTION. THE COMMISSIONER SHALL REAPPRAISE ANY MASS APPRAISAL THAT HAS NOT BEEN ADJUSTED IN A TEN-YEAR PERIOD.

H. FOR THE PURPOSES OF THIS SECTION:

1. "COMPARABLES" MEANS SIMILAR TRANSACTIONS, WITHIN A RELEVANT TIME PERIOD, BETWEEN UNRELATED PARTIES INVOLVING SIMILAR USES OF SIMILAR PROPERTY IN WHICH NONE OF THE DIFFERENCES, IF ANY, BETWEEN THE TRANSACTIONS COULD MATERIALLY AFFECT THE VALUATION OR IN WHICH REASONABLY ACCURATE ADJUSTMENTS MAY BE MADE TO ELIMINATE THE EFFECT OF THE DIFFERENCES.

2. "MASS APPRAISAL" MEANS AN APPRAISAL THAT THE COMMISSIONER PROPOSES TO USE TO SET RENTAL OR FEES FOR MULTIPLE APPLICATIONS FROM MULTIPLE PERSONS FOR A SPECIFIC USE OF STATE LANDS BY LEASE, PERMIT OR RIGHT-OF-WAY GRANT. MULTIPLE APPLICATIONS FOR SIMILAR LAND USES IN A DEFINED GEOGRAPHIC REGION THAT ARE APPRAISED BY A SINGLE APPRAISER SHALL NOT BE CONSIDERED A MASS APPRAISAL.

Sec. 2. Appeal of preexisting mass appraisals

A. If the state land commissioner applies a mass appraisal adopted after December 31, 2006 and before the effective date of this act to change the rental or fee during the term of an existing short or long term commercial lease, permit or right-of-way grant, the holder of the lease, permit or right-of-way grant may appeal the mass appraisal and any application to the lease, permit or right-of-way grant to the board of appeals pursuant to section 37-215, Arizona Revised Statutes, except that the thirty day deadline to file an appeal pursuant to section 37-215,

1 subsection A, Arizona Revised Statutes, shall not apply. An appeal must be  
2 filed before April 1, 2010.

3 B. The holder of a short or a long term commercial lease, permit or  
4 right-of-way grant who is subject to any mass appraisal conducted between  
5 December 31, 2006 and the effective date of this act may request that the  
6 state land department conduct a site-specific appraisal to set the rental or  
7 fee for the use of the state land for the remainder of the term of the lease,  
8 permit or right-of-way grant. The lessee, permittee or right-of-way grantee  
9 shall pay for the site-specific appraisal pursuant to section 37-205, Arizona  
10 Revised Statutes.

11 C. The department is not required to provide additional notice to  
12 lessees, permittees or right-of-way grantees for mass appraisals adopted  
13 after December 31, 2006 and before the effective date of this act.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.